

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CHETNA HARISH SHAH,	:	
	:	Civil Action No.
Plaintiff,	:	08 CV 7371 (GEL)
	:	
- against -	:	
	:	
KUWAIT AIRWAYS CORPORATION,	:	<b>ANSWER TO ENDORSED</b>
	:	<b>COMPLAINT</b>
Defendant.	:	
	:	
	:	
	:	
-----	x	

Defendant KUWAIT AIRWAYS CORPORATION (hereinafter referred to as "KUWAIT AIRWAYS"), by and through its attorneys Condon & Forsyth LLP, as and for its Answer to the Endorsed Complaint:

1. Denies the allegations in the Endorsed Complaint.

**AS AND FOR A FIRST SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE**

2. The Endorsed Complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND SEPARATE  
AND COMPLETE AFFIRMATIVE DEFENSE**

3. The transportation out of which the subject matter of this action arose was "international carriage" within the meaning of the Convention for the Unification of Certain Rules Relating to Transportation by Air, October 12, 1929, 49 Stat. 3000, T.S. No. 876, 137 L.N.T.S. 11 (1934), as amended at the Hague, 1955 and by Protocol No. 4 of Montreal, 1975 (hereinafter "Warsaw Convention") and the rights of the parties are subject to, limited by or

barred pursuant to the provisions of the Warsaw Convention.

4. The liability of defendant KUWAIT AIRWAYS, if any, is limited in accordance with Article 22 of the Warsaw Convention to the sum of \$20.00 per kilo for lost, damaged or pilfered baggage.

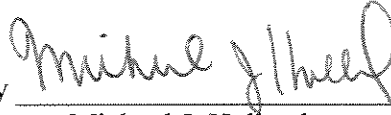
**AS AND FOR A THIRD SEPARATE  
AND COMPLETE AFFIRMATIVE DEFENSE**

5. Defendant KUWAIT AIRWAYS' liability is excluded or limited by the terms and conditions of KUWAIT AIRWAYS' tariffs on file with the United States Department of Transportation and by KUWAIT AIRWAYS' conditions of carriage and conditions of contract.

WHEREFORE, defendant KUWAIT AIRWAYS CORPORATION demands judgment dismissing the Endorsed Complaint in its entirety or, if such relief not be granted, that is liability be limited as prayed herein, together with the costs and disbursements of this action and such other and further relief which this Court deems just and proper.

Dated: New York, New York  
August 20, 2008

CONDON & FORSYTH LLP

By   
Michael J. Holland  
MH 8329

A Partner of the Firm  
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